
HOUSE BILL No. 1806

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-5-2-40.5; IC 3-7; IC 3-10-1; IC 3-11; IC 3-11.5-4-16; IC 3-11.7.

Synopsis: Voter identification. Changes the definition of "proof of identification" for purposes of voting to reflect the standards set by federal law. Repeals a superseded statute.

Effective: July 1, 2007.

Pierce

January 26, 2007, read first time and referred to Committee on Elections and Apportionment.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1806

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-5-2-40.5, AS ADDED BY P.L.109-2005,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 40.5. "Proof of identification" refers to a
4 document that satisfies all the following:

5 (1) The document shows the name of the individual. ~~to whom the~~
6 ~~document was issued and the name conforms to the name in the~~
7 individual's voter registration record:

8 (2) The document shows ~~a photograph~~ **the current address** of the
9 individual. ~~to whom the document was issued:~~

10 (3) The document ~~includes an expiration date; and the document:~~
11 ~~(A) is not expired; or~~

12 ~~(B) expired after the date of the most recent general election:~~

13 ~~(4) The document was issued by the United States or the state of~~
14 Indiana:

15 **is any of the following:**

16 **(A) A current and valid photo identification.**

17 **(B) A current utility bill.**

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(C) A current bank statement.

(D) A current government check.

(E) A current paycheck.

(F) A current government document.

SECTION 2. IC 3-7-22-5, AS AMENDED BY P.L.81-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. A mail registration form prescribed under section 3 of this chapter must meet the following requirements:

(1) The form must include a statement that does the following:

(A) Sets forth each eligibility requirement for registration (including citizenship).

(B) Contains an attestation that the applicant meets each of the eligibility requirements.

(C) Requires the signature of the applicant, under penalty of perjury.

(2) The form must include, in print that is identical to the print used in the attestation part of the application, information setting forth the penalties provided by law for submission of a false voter registration application.

(3) The question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.

(4) The question "Will you be 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be eighteen (18) years of age on or before election day.

(5) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, ~~the appropriate information required under 42 U.S.C. 15483~~ **proof of identification** must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time.

SECTION 3. IC 3-7-33-4.5, AS AMENDED BY P.L.164-2006, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.5. (a) Except as provided in subsection (b), this section applies to an individual who:

(1) submits an application to register to vote by mail under IC 3-7-22; and

(2) has not previously voted in:

(A) a general election in Indiana (or a special election for federal office in Indiana); or

(B) a general election (or a special election for federal office)

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in the county where the individual has submitted an application under this chapter if a statewide voter registration system is not operational in accordance with the requirements of IC 3-7-26.3 and 42 U.S.C. 15483 on the date the application is received by the county voter registration office.

(b) This section does not apply to an individual who complies with the requirements in any of the following:

(1) The individual submits an application to register to vote by mail under this chapter and includes with that mailing a copy of

~~(A) a current and valid photo identification; or~~

~~(B) a current utility bill, bank statement, government check, paycheck, or government document;~~

~~that shows the name and residence address of the voter stated on the voter registration application. the individual's proof of identification.~~

(2) The individual submits an application to register to vote by mail under this chapter that includes:

(A) the individual's Indiana driver's license number; or

(B) the last four (4) digits of the individual's Social Security number;

and the county voter registration office or election division matches the information submitted by the applicant with an existing Indiana identification record bearing the same number, name, and date of birth set forth in the voter registration application.

(3) The individual is an absent uniformed services voter or overseas voter.

(4) The individual is entitled to vote other than in person under the federal Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)) due to a determination by the election division that a permanent or temporarily accessible polling place cannot be provided for the individual.

(5) The individual is entitled to vote other than in person under any other federal law.

(c) When a county voter registration office receives a voter registration application by mail, the office shall determine whether the applicant is subject to the requirements to provide ~~additional documentation under this section and 42 U.S.C. 15483.~~ **proof of identification.**

(d) As required by 42 U.S.C. 15483, a county voter registration office shall administer the requirements of this section in a uniform and nondiscriminatory manner.

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(e) If the county voter registration office determines that the applicant:

(1) is not required to submit ~~additional documentation~~ **proof of identification** under this section; or

(2) has provided the ~~documentation~~ **proof of identification** required under this section;

the county voter registration office shall process the application in accordance with section 5 of this chapter.

(f) If the county voter registration office determines that the applicant is required to submit ~~additional documentation under this section and 42 U.S.C. 15483~~, **proof of identification**, the office shall process the application under section 5 of this chapter and, if the applicant is otherwise eligible to vote, add the information concerning ~~this documentation~~ **the proof of identification** to the voter's computerized registration entry under IC 3-7-27-20.2.

(g) The county voter registration office shall remove the notation described in subsection (f) after the voter votes in an election for a federal office.

SECTION 4. IC 3-10-1-7.2, AS AMENDED BY P.L.164-2006, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7.2. (a) Except as provided in subsection (e), a voter who desires to vote an official ballot at a primary election shall provide proof of identification.

(b) Except as provided in subsection (e), before the voter proceeds to vote in a primary election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter must produce the proof of identification before being permitted to sign the poll list.

(c) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines that the proof of identification presented by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by IC 3-11-8.

(d) If the voter executes a challenged voter's affidavit under section 9 of this chapter or IC 3-11-8-22.1, the voter may:

(1) sign the poll list; and

(2) receive a provisional ballot.

(e) A voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides is not

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required to provide proof of identification before voting in a primary election, **unless the voter is required to present proof of identification under IC 3-7-33-4.5.**

SECTION 5. IC 3-10-1-31.1, AS AMENDED BY P.L.230-2005, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 31.1. (a) This section applies only to election materials for elections held after December 31, 2003.

(b) The inspector of each precinct shall deliver the bags required by section 30(a) and 30(c) of this chapter in good condition, together with poll lists, tally sheets, and other forms, to the circuit court clerk when making returns.

(c) Except for unused ballots disposed of under IC 3-11-3-31 or affidavits received by the county election board under IC 3-14-5-2 for delivery to the foreman of a grand jury, the circuit court clerk shall seal the ballots and other material during the time allowed to file a verified petition or cross-petition for a recount of votes or to contest the election. Except as provided in subsection (d), after the recount or contest filing period, the election material (except for ballots, which remain confidential) shall be made available for copying and inspection under IC 5-14-3. The circuit court clerk shall carefully preserve the sealed ballots and other material for twenty-two (22) months, as required by 42 U.S.C. 1974, after which the sealed ballots and other material are subject to IC 5-15-6 unless an order issued under:

- (1) IC 3-12-6-19 or IC 3-12-11-16; or
- (2) 42 U.S.C. 1973;

requires the continued preservation of the ballots or other material.

(d) If a petition for a recount or contest is filed, the material for that election remains confidential until completion of the recount or contest.

(e) Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For the purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;
- (3) a change of name made under IC 3-7-41;
- (4) adding the registration of a voter under IC 3-7-48-8; or
- (5) recording that a voter subject to IC 3-7-33-4.5 submitted ~~the documentation required under 42 U.S.C. 15483 and IC 3-11-8 or IC 3-11-10;~~ **proof of identification;**

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration

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office shall use the poll lists to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the registration record. Upon completion of the inspection, the poll list shall be preserved with the ballots and other materials in the manner prescribed by subsection (c) for the period prescribed by subsections (c) and (d).

(f) This subsection does not apply to ballots. Notwithstanding subsection (c), if a county voter registration office determines that the inspection and copying of precinct election material would reveal the political parties, candidates, and public questions for which an individual cast an absentee ballot, the county voter registration office shall keep confidential only that part of the election material necessary to protect the secrecy of the voter's ballot.

(g) After the expiration of the period described in subsection (c) or (d), the ballots may be destroyed in the manner provided by IC 3-11-3-31 or transferred to a state educational institution as provided by IC 3-12-2-12.

SECTION 6. IC 3-11-4-17.5, AS AMENDED BY P.L.164-2006, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17.5. (a) Upon receiving an application for an absentee ballot, the county election board (or the absentee voter board in the office of the circuit court clerk) shall determine if:

- (1) the applicant is a voter of the precinct in which the applicant resides, according to the records of the county voter registration office;
- (2) the information set forth on the application appears to be true; and
- (3) the application has been completed and filed in accordance with Indiana and federal law.

If the members of the absentee voter board are unable to agree about any of the determinations described in subdivisions (1) through (3), the issue shall be referred to the county election board for determination. If the application is submitted by a voter wanting to cast an absentee ballot under IC 3-11-10-26, the voter shall be permitted to cast an absentee ballot, and the voter's absentee ballot shall be treated as a provisional ballot.

(b) If:

- (1) the applicant is not a voter of the precinct according to the registration record; or
- (2) the application as completed and filed:
 - (A) contains a false statement; or
 - (B) does not otherwise comply with Indiana or federal law;

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as alleged under section 18.5 of this chapter, the county election board shall deny the application.

(c) This subsection applies to an absentee ballot application submitted by an absent uniformed services voter or an overseas voter. In accordance with 42 U.S.C. 1973ff-1(d), if the application is denied, the county election board shall provide the voter with the reasons for the denial of the application. Unless the voter is present when the board denies the application, the board shall send a written notice stating the reasons for the denial to the voter. The notice must be sent:

- (1) not later than forty-eight (48) hours after the application is denied; and
- (2) to the voter at the address at which the voter requested that the absentee ballot be mailed.

(d) If the county election board determines that the applicant is a voter of the precinct under subsection (a), the board shall then determine whether:

- (1) the applicant was required to file ~~any additional documentation~~ **proof of identification** under IC 3-7-33-4.5; and
- (2) the applicant has filed ~~this documentation~~ **proof of identification** according to the records of the county voter registration office.

If the applicant has not filed the ~~required documentation,~~ **proof of identification**, the county election board shall approve the application if the application otherwise complies with this chapter. The board shall add a notation to the application and to the record compiled under section 17 of this chapter indicating that the applicant will be required to provide ~~additional documentation~~ **proof of identification** to the county voter registration office under IC 3-7-33-4.5 before the absentee ballot may be counted.

(e) If the applicant:

- (1) is a voter of the precinct according to the registration record;
- (2) states on the application that the applicant resides at an address that is within the same precinct but is not the same address shown on the registration record; and
- (3) provides a voter identification number on the application to permit transfer of registration under IC 3-7-13-13;

the county election board shall direct the county voter registration office to transfer the applicant's voter registration address to the address within the precinct shown on the application. The applicant's application for an absentee ballot shall be approved if the applicant is otherwise eligible to receive the ballot under this chapter.

SECTION 7. IC 3-11-4-18, AS AMENDED BY P.L.164-2006,

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SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) If a voter satisfies any of the qualifications described in IC 3-11-10-24 that entitle a voter to cast an absentee ballot by mail, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application.

(b) If the county election board mails an absentee ballot to a voter required to file ~~additional documentation~~ **proof of identification under IC 3-7-33-4.5** with the county voter registration office before voting by absentee ballot under this chapter, the board shall include a notice to the voter in the envelope mailed to the voter under section 20 of this chapter. The notice must inform the voter that the voter must file ~~the additional documentation required under IC 3-7-33-4.5~~ **proof of identification** with the county voter registration office not later than noon on election day for the absentee ballot to be counted as an absentee ballot, and that, if the ~~documentation required under IC 3-7-33-4.5~~ **proof of identification** is filed after noon and before 6 p.m. on election day, the ballot will be processed as a provisional ballot. The commission shall prescribe the form of this notice under IC 3-5-4-8.

(c) Except as provided in section 18.5 of this chapter, the ballot shall be mailed:

- (1) on the day of the receipt of the voter's application; or
- (2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;

whichever is later.

(d) In addition to the ballot mailed under subsection (c), the county election board shall mail a special absentee ballot for overseas voters.

(e) Except as provided in section 18.5 of this chapter, the ballot described in subsection (d):

- (1) must be mailed:
 - (A) on the day of the receipt of the voter's application; or
 - (B) not more than five (5) days after the latest date for delivery of the ballots under section 13(b) of this chapter applicable to that election;

whichever is later; and

- (2) may not be mailed after the absentee ballots described by section 13(a) of this chapter have been delivered to the circuit court clerk or the clerk's authorized deputy.

(f) As required by 42 U.S.C. 15481, an election board shall establish a voter education program (specific to a paper ballot or optical scan ballot card provided as an absentee ballot under this chapter) to notify

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a voter of the effect of casting multiple votes for a single office.

(g) As provided by 42 U.S.C. 15481, when an absentee ballot is mailed under this section, the mailing must include:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 8. IC 3-11-8-25.1, AS AMENDED BY P.L.164-2006, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 25.1. (a) Except as provided in subsection ~~(e)~~, (g), a voter who desires to vote an official ballot at an election shall provide proof of identification.

(b) Except as provided in subsection ~~(e)~~, (g), before the voter proceeds to vote in the election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter shall produce the proof of identification before being permitted to sign the poll list.

(c) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by this chapter.

(d) If the voter executes a challenged voter's affidavit under section 22.1 of this chapter, the voter may:

(1) sign the poll list; and

(2) receive a provisional ballot.

~~(e) a voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides is not required to provide proof of identification before voting in an election.~~

~~(f)~~ (e) After a voter has passed the challengers or has been sworn in, the voter shall be instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed. The voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list:

(1) The voter's name.

(2) Except as provided in subsection ~~(k)~~, (j), the voter's current residence address.

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1 ~~(g)~~ (f) The poll clerk, an assistant poll clerk, or a member of the
2 precinct election board shall:

3 (1) ask the voter to provide or update the voter's voter
4 identification number;

5 (2) tell the voter the number the voter may use as a voter
6 identification number; and

7 (3) explain to the voter that the voter is not required to provide or
8 update a voter identification number at the polls.

9 ~~(h)~~ (g) The poll clerk, an assistant poll clerk, or a member of the
10 precinct election board shall ask the voter to provide proof of
11 identification. **A voter who votes in person at a precinct polling**
12 **place that is located at a state licensed care facility where the voter**
13 **resides is not required to provide proof of identification before**
14 **voting in an election, unless the voter is required to present proof**
15 **of identification under IC 3-7-33-4.5.**

16 ~~(i)~~ (h) In case of doubt concerning a voter's identity, the precinct
17 election board shall compare the voter's signature with the signature on
18 the affidavit of registration or any certified copy of the signature
19 provided under IC 3-7-29. If the board determines that the voter's
20 signature is authentic, the voter may then vote. If either poll clerk
21 doubts the voter's identity following comparison of the signatures, the
22 poll clerk shall challenge the voter in the manner prescribed by section
23 21 of this chapter.

24 ~~(j)~~ (i) If: ~~in a precinct governed by subsection (g):~~

- 25 (1) the poll clerk does not execute a challenger's affidavit; or
26 (2) the voter executes a challenged voter's affidavit under section
27 22.1 of this chapter or executed the affidavit before signing the
28 poll list;

29 the voter may then vote.

30 ~~(k)~~ (j) Each line on a poll list sheet provided to take a voter's current
31 address must include a box under the heading "Address Unchanged"
32 so that a voter whose residence address shown on the poll list is the
33 voter's current residence address may check the box instead of writing
34 the voter's current residence address on the poll list.

35 SECTION 9. IC 3-11-10-1.2, AS ADDED BY P.L.103-2005,
36 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2007]: Sec. 1.2. **Unless the voter is required to present**
38 **proof of identification under IC 3-7-33-4.5,** an absentee voter is not
39 required to provide proof of identification when:

40 (1) mailing, delivering, or transmitting an absentee ballot under
41 section 1 of this chapter; or

42 (2) voting before an absentee board under section 25 of this

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1 chapter.

2 SECTION 10. IC 3-11-10-4.5, AS AMENDED BY P.L.221-2005,
3 SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2007]: Sec. 4.5. (a) Upon receipt of an absentee ballot from
5 a voter required to provide additional information to the county voter
6 registration office under IC 3-7-33-4.5, the county election board shall
7 contact the county voter registration office to determine if the
8 additional information has been filed with the office by the voter.

9 (b) If the voter has filed the information with the county voter
10 registration office, the county election board shall add a notation to the
11 application indicating that the required information has been filed and
12 that the absentee ballot may be counted if the ballot otherwise complies
13 with this article.

14 (c) If the voter has not filed the information with the county voter
15 registration office, the county election board shall add a notation on the
16 application filed by a voter described under subsection (b) and on the
17 envelope provided under this chapter reading substantially as follows:

18 "INSPECTOR: AS OF (insert date absentee ballot application
19 approved) THIS VOTER WAS REQUIRED TO FILE
20 ~~ADDITIONAL DOCUMENTATION~~ **PROOF OF**
21 **IDENTIFICATION** WITH THE COUNTY VOTER
22 REGISTRATION OFFICE BEFORE THIS BALLOT MAY BE
23 COUNTED. CHECK THE POLL LIST AND COUNTY
24 ELECTION BOARD CERTIFICATION TO SEE IF THE
25 VOTER HAS FILED ~~THIS INFORMATION~~. **PROOF OF**
26 **IDENTIFICATION**. IF NOT, PROCESS AS A PROVISIONAL
27 BALLOT IF THIS BALLOT OTHERWISE COMPLIES WITH
28 INDIANA LAW."

29 SECTION 11. IC 3-11-10-11, AS AMENDED BY P.L.221-2005,
30 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2007]: Sec. 11. (a) On election day each circuit court clerk (or
32 an agent of the clerk) shall visit the appropriate post office to accept
33 delivery of absentee envelopes at the latest possible time that will
34 permit delivery of the ballots to the appropriate precinct election boards
35 before 6 p.m.

36 (b) Not later than noon on election day, the county voter registration
37 office shall visit the appropriate post office to accept delivery of mail
38 containing ~~documentation~~ **proof of identification** submitted by a voter
39 to comply with IC 3-7-33-4.5. The office shall immediately notify the
40 county election board regarding the filing of this ~~documentation~~ **proof**
41 **of identification** to permit the board to provide certification of this
42 filing to the appropriate precinct election boards before 6 p.m.

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1 SECTION 12. IC 3-11-10-12, AS AMENDED BY P.L.164-2006,
 2 SECTION 106, IS AMENDED TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) Each county election board
 4 shall have all absentee ballots delivered to the precinct election boards
 5 at their respective polls on election day.

6 (b) The absentee ballots shall be delivered during the hours that the
 7 polls are open and in sufficient time to enable the precinct election
 8 boards to vote the ballots during the time the polls are open.

9 (c) Along with the absentee ballots delivered to the precinct election
 10 boards under subsection (a), each county election board shall provide
 11 a list certified by the circuit court clerk. This list must state the name
 12 of each voter subject to IC 3-7-33-4.5 who:

13 (1) filed the ~~documentation required by IC 3-7-33-4.5~~ **proof of**
 14 **identification** with the county voter registration office after the
 15 printing of the certified list under IC 3-7-29 or the poll list under
 16 IC 3-11-3; and

17 (2) as a result, is entitled to have the voter's absentee ballot
 18 counted if the ballot otherwise complies with this title.

19 (d) If the county election board is notified not later than 3 p.m. on
 20 election day by the county voter registration office that a voter subject
 21 to IC 3-7-33-4.5 and not identified in the list certified under subsection
 22 (c) has filed ~~documentation~~ **proof of identification** with the office, ~~that~~
 23 ~~complies with IC 3-7-33-4.5~~, the county election board shall transmit
 24 a supplemental certified list to the appropriate precinct election board.
 25 If the board determines that the supplemental list may not be received
 26 before the closing of the polls, the board shall:

27 (1) attempt to contact the precinct election board to inform the
 28 board regarding the content of the supplemental list; and

29 (2) file a copy of the supplemental list for that precinct as part of
 30 the permanent records of the board.

31 (e) This subsection applies to a special write-in absentee ballot
 32 described in:

33 (1) 42 U.S.C. 1973ff for federal offices; and

34 (2) IC 3-11-4-12(a) for state offices.

35 If the county election board receives both a special write-in absentee
 36 ballot and the regular absentee ballot described by IC 3-11-4-12 from
 37 the same voter, the county election board shall reject the special
 38 write-in ballot and deliver only the regular absentee ballot to the
 39 precinct election board.

40 SECTION 13. IC 3-11-10-22, AS AMENDED BY P.L.109-2005,
 41 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2007]: Sec. 22. (a) If an absentee ballot is challenged under

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section 21 of this chapter, the absentee voter's application for an absentee ballot shall be considered as the affidavit required to be made by a voter when challenged at the polls while voting in person.

(b) Except as provided in subsection (c), the challenge procedure under this section is the same as though the ballot was cast by the voter in person.

(c) **Unless the voter is required to present proof of identification under IC 3-7-33-4.5**, an absentee voter is not required to provide proof of identification.

(d) If a proper affidavit is made that would entitle the absentee voter to vote if the absentee voter had personally appeared, then the absentee ballot shall be placed in the ballot box.

SECTION 14. IC 3-11-10-28, AS AMENDED BY P.L.221-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 28. (a) A voter voting before an absentee voter board shall mark the voter's ballot in the presence of the board, but not in such a manner that either of the members of the board can see for whom the voter voted, unless the voter requests the help of the board in marking a ballot under IC 3-11-9.

(b) The voter shall then, in the presence of the board, place the ballot in an envelope furnished by the county election board.

(c) The circuit court clerk shall provide, to the extent practicable, the same degree of privacy to absentee voters voting at the office of the circuit court clerk as provided to voters at the polls on election day.

(d) This subsection applies to a voter required to present ~~additional information~~ **proof of identification** under IC 3-7-33-4.5. If the voter does not present ~~the required additional information~~ **proof of identification** before receiving the absentee ballot, the absentee ballot shall be processed in accordance with section 4.5(c) of this chapter.

(e) Upon accepting the completed absentee ballot from the voter, the board shall provide the voter with a notice:

(1) listing the documentation ~~the voter may submit to the county voter registration office~~ **that is acceptable proof of identification** to comply with IC 3-7-33-4.5; and

(2) stating the address and hours of the county voter registration office.

SECTION 15. IC 3-11.5-4-16, AS AMENDED BY P.L.164-2006, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) If an absentee ballot is challenged under section 15 of this chapter, the absentee voter's application for an absentee ballot shall be considered as the affidavit required to be made by a voter when challenged at the polls while

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1 voting in person.

2 (b) Except as provided in subsection (c), the challenge procedure
3 under this section is the same as though the ballot was cast by the voter
4 in person.

5 (c) **Unless the voter is required to present proof of identification**
6 **under IC 3-7-33-4.5**, an absentee voter is not required to provide proof
7 of identification.

8 (d) If a proper affidavit by a qualified person in the form required by
9 IC 3-11-8-22.1 is made that would entitle the absentee voter to vote if
10 the absentee voter had personally appeared, the couriers shall return the
11 affidavit to the county election board in the same envelope as the
12 certificate returned under section 9 of this chapter.

13 (e) The absentee ballot cast by the challenged voter shall be counted
14 if the county election board makes the findings required under section
15 11 of this chapter.

16 SECTION 16. IC 3-11.7-2-1, AS AMENDED BY P.L.164-2006,
17 SECTION 121, IS AMENDED TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As provided by 42 U.S.C.
19 15482, this section applies to the following individuals:

20 (1) An individual:

- 21 (A) whose name does not appear on the registration list; and
- 22 (B) who is challenged under IC 3-10-1 or IC 3-11-8 after the
- 23 voter makes an oral or a written affirmation under IC 3-7-48-5
- 24 or IC 3-7-48-7 or after the voter produces a certificate of error
- 25 under IC 3-7-48-1.

26 (2) An individual described by IC 3-10-1-10.5, IC 3-11-8-23.5, or
27 IC 3-11-8-27.5 who is challenged as not eligible to vote.

28 (3) An individual who seeks to vote in an election as a result of a
29 court order (or any other order) extending the time established for
30 closing the polls under IC 3-11-8-8.

31 (b) ~~As required by 42 U.S.C. 15483~~; A voter who has registered to
32 vote but has not:

33 (1) presented **proof of identification required under 42 U.S.C.**
34 ~~15483~~ to the poll clerk before voting in person under
35 IC 3-11-8-25.1; or

36 (2) filed a copy of the **voter's proof of identification if** required
37 under ~~42 U.S.C. 15483~~ **this title** to the county voter registration
38 office before the voter's absentee ballot is cast;
39 is entitled to vote a provisional ballot under this article.

40 (c) A precinct election officer shall inform an individual described
41 by subsection (a)(1) or (a)(2) that the individual may cast a provisional
42 ballot if the individual:

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(1) is eligible to vote under IC 3-7-13-1;

(2) submitted a voter registration application during the registration period described by IC 3-7-13-10 (or IC 3-7-36-11, if the voter registered under that section); and

(3) executes an affidavit described in IC 3-10-1-9 or IC 3-11-8-23.

(d) A precinct election officer shall inform an individual described by subsection (a)(3) that the individual may cast a provisional ballot.

SECTION 17. IC 3-11.7-5-2, AS AMENDED BY P.L.103-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Except as provided in section 5 of this chapter, if the county election board determines that all the following apply, a provisional ballot is valid and shall be counted under this chapter:

(1) The affidavit executed by the provisional voter under IC 3-11.7-2-1 is properly executed.

(2) The provisional voter is a qualified voter of the precinct and has provided proof of identification, if required, under ~~IC 3-10-1, IC 3-11-8, or IC 3-11-10-26~~; **this title.**

(3) Based on all the information available to the county election board, including:

(A) information provided by the provisional voter;

(B) information contained in the county's voter registration records; and

(C) information contained in the statewide voter registration file;

the provisional voter registered to vote at a registration agency under this article on a date within the registration period.

(b) If the provisional voter has provided information regarding the registration agency where the provisional voter registered to vote, the board shall promptly make an inquiry to the agency regarding the alleged registration. The agency shall respond to the board not later than noon of the first Friday after the election, indicating whether the agency's records contain any information regarding the registration. If the agency does not respond to the board's inquiry, or if the agency responds that the agency has no record of the alleged registration, the board shall reject the provisional ballot. The board shall endorse the ballot with the word "Rejected" and document on the ballot the inquiry and response, if any, by the agency.

(c) Except as provided in section 5 of this chapter, a provisional ballot cast by a voter described in IC 3-11.7-2-1(b) is valid and shall be counted if the county election board determines under this article that the voter filed ~~the documentation required under IC 3-7-33-4.5 and 42~~

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~~U.S.C. 15483~~ **proof of identification** with the county voter registration office not later than the closing of the polls on election day.

SECTION 18. IC 3-11.7-5-3, AS AMENDED BY P.L.103-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) If the board determines that the affidavit executed by the provisional voter has not been properly executed, that the provisional voter is not a qualified voter of the precinct, that the voter failed to provide proof of identification when required under ~~IC 3-10-1, IC 3-11-8, or IC 3-11-10-26~~, **this title**, or that the provisional voter did not register to vote at a registration agency under this article on a date within the registration period, the board shall make the following findings:

(1) The provisional ballot is invalid.

(2) The provisional ballot may not be counted.

(3) The provisional ballot envelope containing the ballots cast by the provisional voter may not be opened.

(b) If the county election board determines that a provisional ballot is invalid, a notation shall be made on the provisional ballot envelope: "Provisional ballot determined invalid".

SECTION 19. IC 3-11-8-25.2 IS REPEALED [EFFECTIVE JULY 1, 2007].

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